

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FREDERICK F. FAGAL, JR.,	:	
	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	CIVIL ACTION
	:	
MARYWOOD UNIVERSITY,	:	NO. 3:14-cv-02404-ARC
	:	
<i>Defendant.</i>	:	(JUDGE CAPUTO)
	:	
	:	<u>ORAL ARGUMENT REQUESTED</u>

**TABLE OF EXHIBITS IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT BY PLAINTIFF**

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<b>EX. NO.</b>	<b><u>DESCRIPTION</u></b>
<b>1</b>	Amended Complaint (Jan. 15, 2015) (ECF No. 7)
<b>2</b>	Defendant's Answer to Plaintiff's Amended Complaint and Affirmative and Other Defenses (June 30, 2015) (ECF No. 30)
<b>3</b>	Videotape Dep. of Frederick F. Fagal, Jr. (June 7, 2016) (partially redacted under LR 5.2(d))
<b>4</b>	Agreement and Appointment for Full-Time Faculty (1992)
<b>5(a)</b>	Marywood University Faculty Handbook (July 1, 2010) (DEF3456-DEF3624) (Part I)
<b>5(b)</b>	Marywood University Faculty Handbook (July 1, 2010) (DEF3625-DEF3696) (Part II)
<b>6</b>	Letter of Agreement (May 25, 2011)
<b>7</b>	"Contractual Agreements with Faculty Members" policy (Feb. 18, 2011)
<b>8</b>	Defendant's Answers and Objections to Plaintiff's First Set of Interrogatories Directed to Defendant (Aug. 5, 2016)
<b>9</b>	Email from Frederick F. Fagal, Jr. (Jan. 13, 2012)
<b>10</b>	Video titled "Marywood University Tears Down 'Approved' Free Speech Posters- Nov 28-30 2011 Part 1 of 2" (filed manually)
<b>11</b>	Video titled "Marywood University Tears Down 'Approved' Free Speech Poster Nov 28-30 2011 Part 2 of 2--New posters arrive Nov. 30, 2011" (filed manually)
<b>12</b>	Declaration of Frederick F. Fagal, Jr. (Nov. 21, 2016)
<b>13</b>	"Tenure" policy (Dec. 9, 2011)
<b>14</b>	Email from Patricia E. Dunleavy, Ph.D. to Frederick F. Fagal, Jr. (Jan. 23, 2012 2:14 PM)
<b>15</b>	Email and attachments from Frances D. Ferrese to Frederick F. Fagal, Jr. (Jan. 24, 2012 1:11 PM)
<b>16</b>	Letter and enclosures from Sr. Anne Munley, IHM, Ph.D. to Frederick F. Fagal, Jr. (Feb. 8, 2012) (DEF000207-DEF000226)
<b>17</b>	DVD: Downfall (Constantin Film AG 2004) (filed manually)
<b>18</b>	Finlo Rohrer, <u>The rise, rise and rise of the Downfall Hitler parody</u> , BBC New Magazine (Apr. 13, 2010 10:59 GMT), <a href="http://news.bbc.co.uk/2/hi/uk_news/magazine/8617454.stm">http://news.bbc.co.uk/2/hi/uk_news/magazine/8617454.stm</a>
<b>19</b>	<u>Hitler Downfall parodies: 25 worth watching</u> , The Telegraph (Oct. 6, 2009 7:00 AM BST), <a href="http://www.telegraph.co.uk/technology/news/6262709/Hitler-Downfall-parodies-25-worth-watching.html">http://www.telegraph.co.uk/technology/news/6262709/Hitler-Downfall-parodies-25-worth-watching.html</a> .

<b>20</b>	Daniel A. Gross, <u>Führer Humor: The Art of the Nazi Comedy</u> , The Atlantic (Dec. 20, 2015), <a href="http://www.theatlantic.com/entertainment/archive/2015/12/look-whos-back-nazi-comedies/420081">http://www.theatlantic.com/entertainment/archive/2015/12/look-whos-back-nazi-comedies/420081</a> (last viewed Nov. 16, 2016).
<b>21</b>	Paul Boutin, <u>Video Mad Libs with the Right Software</u> , N.Y. Times (Feb. 24, 2010), <a href="http://nyti.ms/1GiZ2Eq">http://nyti.ms/1GiZ2Eq</a> .
<b>22</b>	Virginia Heffernan, <u>The Hitler Meme</u> , N.Y. Times (Oct. 24, 2008), <a href="http://nyti.ms/29k9saG">http://nyti.ms/29k9saG</a> .
<b>23</b>	Dylan Sanborn, <u>Goodell (Hitler) Reacts to the Patriots Week 7 Victory Against the Steelers</u> , YouTube (Oct. 25, 2016), <a href="https://youtu.be/_cmsegbYKtk">https://youtu.be/_cmsegbYKtk</a> . (filed manually)
<b>24</b>	Jamnospam, <u>Real Estate Downfall</u> , YouTube (Nov. 3, 2008), <a href="https://youtu.be/bNmcf4Y3IGM">https://youtu.be/bNmcf4Y3IGM</a> . (filed manually)
<b>25</b>	Save NY Schools, <u>High Stakes Standardized Testing in New York...the DOWNFALL !</u> , YouTube (Sept. 4, 2013), <a href="https://youtu.be/OvKVkitKOgk">https://youtu.be/OvKVkitKOgk</a> . (filed manually)
<b>26</b>	"Progressive Discipline" policy (May 7, 2014)
<b>27</b>	Letter from Jonathan Z. Cohen, Esq. to Munley (Feb. 2, 2012) (DEF000192-DEF000196)
<b>28</b>	Letter from William J. Anthony, Esq. ("Anthony") to Cohen (Feb. 9, 2012) (FFF000163- FFF000165)
<b>29</b>	"Faculty Grievances and Appeals" policy (Apr. 29, 2011)
<b>30</b>	Correspondence from Gail Cabral, IHM, Ph.D. to Munley (Feb. 27, 2012) (DEF000241)
<b>31</b>	Email from Fagal to Cabral (Feb. 22, 2012) (FFF000126-FFF000128)
<b>32</b>	Letter from Munley to Fagal (Apr. 3, 2012) (DEF000302)
<b>33</b>	Dep. of Sister Anne Munley, IHM, Ph.D. (June 2, 2016)
<b>34</b>	"Review of Sister Anne Munley's Decision to Terminate the Employment and Tenure of Dr. Frederick Fagal" (July 2, 2012) (DEF001516-DEF001519).
<b>35</b>	Dep. of Erin A. Sadlack, Ph.D. (June 28, 2016)
<b>36</b>	Letter from Munley to Fagal (July 13, 2012) (DEF000424) (Ex. Fagal-40)

<b>37</b>	Plaintiff's First Set of Interrogatories Directed to Defendant (June 22, 2016)
<b>38</b>	Letter from Stephanie J. Peet, Esq. to Jonathan Z. Cohen, Esq. (Sept. 1, 2016)
<b>39</b>	Letter of Agreement (May 10, 2010) (FFF000432)
<b>40</b>	Dep. of Patricia E. Dunleavy, Ph.D. (Aug. 11, 2016)
<b>41</b>	Dep. of Michael A. Foley, Ph.D. (Feb. 26, 2016) (partially redacted under LR 5.2(d))
<b>42</b>	Email from Alan M. Levine, Ph.D. to Patricia E. Dunleavy, Ph.D. and Michael A. Foley, Ph.D. (Jan. 20, 2012) (DEF002759-DEF002760) (Ex. Dunleavy 6 & Levine 8)
<b>43</b>	Dep. of Alan M. Levine, Ph.D. (Sept. 6, 2016)
<b>44</b>	Letter from Erin A. Sadlack, Ph.D. to Frederick Fagal (Mar. 26, 2012) (DEF002088) (Ex. "Sadlack-2")
<b>45</b>	Email from Frederick Fagal to Sr. Anne Munley (Mar. 29, 2012) (FFF001665)
<b>46</b>	Letter from Jonathan Z. Cohen, Esq. to William J. Anthony, Esq. (
<b>47</b>	Dep. of Helen Bittel, Ph.D. (Sept. 29., 2016)
<b>48</b>	Email from Helen Bittel to Patricia E. Dunleavy (May 18, 2012 4:03 PM) (DEF001749-DEF001751) (Ex. "Bittel 9")
<b>49</b>	"Minutes. Ad Hoc Meeting #2. May 17, 2012. 2-4p" (DEF000322-DEF000323) (Exs. "Bittel 7," "Dunleavy 32," "O'Brien-7," "Povse-4")
<b>50</b>	Dep. of Mathew R. Povse (June 28, 2016)
<b>51</b>	Policy titled "Employment At-will Relationship with Administrators and Staff" (Feb. 24, 2006) (FFF001199- FFF001200)
<b>52</b>	Policy titled "Non-reappointment of Faculty Member" (July 1, 2003) (FFF001445-FFF001446)

<b>53</b>	Policy titled "Violent Acts and Threats" (Apr. 29, 2011) (FFF001460-FFF001461)
<b>54</b>	Email from Dr Alan Levine to Sr. Anne Munley (Jan. 17, 2012 2:48 PM) (DEF002418-DEF002419) (Ex. # "6 Munley")
<b>55</b>	"Talking Points for Meeting (my checklist)" (DEF002898-DEF002899) (Ex. # "7 Munley")
<b>56</b>	Handwritten notes by Patricia E. Dunleavy, Ph.D. (Jan. 23, 2012) (DEF000162-DEF000164) (Ex. "Dunleavy 8")
<b>57</b>	Typed notes by Patricia E. Dunleavy, Ph.D. (Jan. 23, 2012) (DEF000143-DEF000144) (Ex. "Dunleavy 11")
<b>58</b>	Email from Sr. Gail Cabral to Frederick F. Fagal, Jr. (Apr. 30, 2012 5:03 PM) (DEF001496) (Ex. # "22 Munley")
<b>59</b>	"Talking Points for Meeting (my checklist)" (DEF000147-DEF000148) (Ex. "Dunleavy 7")
<b>60</b>	Handwritten note by Patricia E. Dunleavy, Ph.D. (Feb. 3, 2012) (DEF000199) (Ex. "Dunleavy 18")
<b>61</b>	Email from Patricia Dunleavy to Sr. Anne Munley (July 18, 2012) (DEF002781-DEF002782) (Ex. "Dunleavy 40")
<b>62</b>	Letter from Jonathan Z. Cohen, Esq. to William J. Anthony, Esq. (Feb. 17, 2012) (FFF001686-FFF001693).
<b>63</b>	Letter from Jonathan Z. Cohen, Esq. to William J. Anthony, Esq. (Feb. 28, 2012) (FFF001748)
<b>64</b>	Email from Frederick Fagal to Helen Bittel, Edward J. O'Brien, and Mathew R. Povse (July 6, 2012) (FFF000075-FFF000076)
<b>65</b>	Email from Barbara McNally to Dr Alan Levine (Apr. 2, 2012) (DEF002380) (Dep. Ex. "Levine 13")
<b>66</b>	Letter from Jonathan Z. Cohen, Esq. to William J. Anthony, Esq. (Apr. 4, 2012) (FFF000155-FFF000157)
<b>67</b>	Email from Frederick Fagal to Helen Bittel, Mathew R. Povse, and Edward J. O'Brien (May 6, 2012) (FFF000124)
<b>68</b>	Frederick F. Fagal, Jr.'s written defense to Munley's charges (May 6, 2012) (FFF000115-FFF000123)

<b>69</b>	Email from Helen Bittel to Patricia Dunleavy (July 10, 2012) (DEF003733-DEF003734) (Ex. "Bittel 17")
<b>70</b>	Letter from Jonathan Z. Cohen, Esq. to Stephanie J. Peet, Esq. (Nov. 2, 2016), enclosing Kristin K. Kucsma, M.A. & Stephen B. Levinson, Ph.D., <u>An Appraisal of Economic Loss to Frederick F. Fagal, Jr.</u> (Nov. 2, 2016) (partially redacted under LR 5.2(d))

Respectfully,

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Date: December 13, 2016

**CERTIFICATE OF SERVICE**

I, Jonathan Z. Cohen, attorney for Plaintiff, certify that the foregoing document has been filed electronically and is available for viewing and downloading from the ECF system. The following parties have consented to electronic service:

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Date: December 13, 2016